



Washington Cattlemen's Association

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Heather Bartlett, Water Quality Program Manager
Washington Department of Ecology
c/o Jon Jennings
PO Box 47696
Olympia, WA 98504-7696

RE: Comments from the Washington Cattlemen's Association on DOE's Preliminary DRAFT CAFO permit

Dear Ms. Bartlett,

The Washington Cattlemen's Association (WCA) would like to submit the following comments and concerns regarding the proposed Draft CAFO permit.

The WCA does not agree with DOE's requirement that an owner/operator be required to obtain a CAFO permit if their lagoon is not double lined with a leak detection system. The WCA believes that DOE's DRAFT CAFO permit disregards the work and stewardship that NRCS has conducted alongside hundreds of owners/operators in Washington State. The WCA does not agree with DOE's statement that "*other lagoon designs are known to leak*". The WCA requests that the DOE sites the science that it is using to make this blanket determination.

The WCA opposes the requirement that all owners/operators that have a lagoon that is not double lined with a leak detection system be required to obtain a permit. This requirement will create an enormous economic burden on small beef operations that are operating on old dairy farms. The expense associated with CAFO permit compliance can't be justified by a small cow-calf operation.

The WCA opposes the DOE's requirement that "*Permittees must use all known, available, and reasonable methods of prevention, control, and treatment (AKART) when operating their production and land application areas.*" The WCA believes that AKART is an unattainable requirement that will leave permit holders wide open to litigation. The WCA requests that all referenced to AKART be removed from the permit.

The WCA opposes the requirement in S3.C "*Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications must be submitted to Ecology for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications must be submitted at least one hundred eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities must be constructed*

and operated in accordance with the approved plans.” The WCA believes this language is far too vague will create a paperwork do-loop for permit holders that need to conduct basic maintenance to facilities. By this definition a permit holder would be required to submit a plan 6 months in advance if the owner/operator wished to replace a 6” gate valve with a 6” butterfly valve. This section must be furthered clarified.

The WCA opposes the AKART reference in **S4.A Objectives** “To document implementation of AKART for controlling pollutants on the CAFO”.

The opposes the language in **Facility Run-off Controls** “*Keep manure from being tracked out onto public roadways*”. The WCA believes this language needs to be further clarified to address manure track out from application equipment. Currently, as written a permit holder would be in violation of the CAFO permit if they walked cattle across the road and manure was tracked on the roadway. The proposed language is unacceptable as written.

The WCA understands the first paragraph in 6. **Prevent Direct Animal Contact with Water.** “*Livestock must not be allowed to come into contact with surface waters or conduits to surface waters. The Permittee must describe how it prevents livestock contact with surface water during its operations*”. This is a logical requirement that livestock producers understand.

“*On grazing areas that are part of the CAFO, livestock must be fenced out of surface water, vegetative buffers, and conduits to surface water by a minimum of 35 feet from the **top of the bank**. Animals may not be allowed access to buffers or conduits to surface water*”. This is an unneeded and unacceptable requirement that has no basis in the CAFO permit. This requirement will eliminate livestock grazing on thousands of acres of land throughout the state. The WCA strongly opposes the DOE’s arbitrary requirement to implement a 35 foot buffer. The WCA would like to know what the DOE is not willing to utilize their own water quality tool, “Clean Water and Livestock Operations: Assessing Risks to Water Quality” to address non-point water quality on grazing lands associated with the CAFO? The WCA believes the DOE is overstepping its regulatory authority by attempting to implement a 35 foot buffer. The Federal CAFO rule requires that livestock producers eliminate direct access to surface water in the confinement area. The WCA believes DOE has gone too far in mandating a 35 foot buffer from all waters of the State. The WCA requests that this big dumb buffer requirement be eliminated from the permit.

The WCA believes that the language in 9. **Manure Nutrient Testing** be clarified. As written, “*The Permittee must have all manure that will be land applied tested for its nutrient content prior to beginning land application*”. Does this mean every load must be tested? If not the DOE must clarify testing requirements.

The WCA is concerned that section 11. **Land Application** may eliminate application opportunities to permit holders if “*Manure may not be applied to frozen, snow covered, or **saturated** fields, dormant crops, or to bare fields that are not being prepared for the current year’s crop, generally from October 15 to TSUM-200*”. The WCA requests that DOE consult with WSDA and WSU Cooperative Extension to determine if the previous statement needs to

remain in the permit in its current form. The WCA wants to be sure that true science not opinion drives the CAFO permit.

The WCA requests clarification on section 13. **Field Run-off Prevention Management Practices.** *“A minimum 100-foot land application setback, measured horizontally from the top of the bank, from all surface waters, wellheads, drains, open tile lines, or other conduits to surface or ground waters”*. The WCA would like to know if there is any consideration of landscape characteristics when the DOE mandates 100-foot setback such as slope of the land? Is a 100 foot setback required if the water of the state is up gradient from the application site?

The WCA requests that DOE refine its definition of a Lagoon, “Means a structure designed for storage of liquid manure and other waste materials”. The WCA is concerned that this definition is too vague and will require numerous operations throughout the state to obtain a permit simply because they have a structure that is designed to hold “waste materials” “Waste: Means discarded materials. The WCA requests that the terms for a lagoon and waste be revised to not include evaporative ponds or dry stacks.

Thank you for considering these comments on the DRAFT CAFO permit.

Sincerely,

Jack Field, Executive Vice President
Washington Cattlemen’s Association